

**California Natural Resources Agency  
Blue Ribbon Committee for the Rehabilitation of Clear Lake**

**Charter for the Blue Ribbon Committee  
May 9, 2019, 2019**

**Section 1 - Project Purpose and Background**

Clear Lake is one of the top two contributors to the local Lake County economy, according to the 2016 Lake County Comprehensive Economic Development Strategy, which cites the lake as “the cornerstone of the local visitor and recreation markets,” mainly through boating and bass fishing tourism. It is essential to the traditional cultural resources and economies of the seven federally recognized tribes of the area; the condition of the lake affects the safety of traditional ceremonies, as well as fishing and consumption of fish in accordance with tribal customs. Clear Lake is the oldest species-rich, warm water, natural lake in North America. It supports the surrounding ecosystems of native plants and animals, as well as species introduced by the Department of Fish and Wildlife. Clear Lake and the surrounding environment are also a home to endangered and rare animal species. However, the lake also experiences environmental challenges such as harmful algal blooms and mercury contamination from legacy mining issues.

In light of the environmental challenges facing Clear Lake and Lake County, Assembly Bill (AB) 707 (Aguiar-Curry, 2017) was passed by the California Legislature and signed by Governor Jerry Brown to create a Blue Ribbon Committee (Committee) to develop strategies to clean up the Lake and revitalize local economies dependent on the health of the Lake. AB 707 places the Committee under the California Natural Resources Agency (Resources) management, with the Resource Secretary or designee serving as Committee Chair.

**Section 2- Committee Purpose and Charter Intent**

The purpose of the Committee is to develop reasonable and actionable recommendations to address the challenges listed above. These recommendations are expected to form a “living document” to be updated as conditions change over the life of the Committee or legislative priorities shift within the region. All recommendations will be compiled into an annual report to the Governor and Legislature as required by AB 707. Recommendations should be developed using the best available science and existing regulations, including AB 52 (Gatto, 2013) requirements for California Environmental Quality Act (CEQA) consultation with tribes to avoid significant impacts to cultural resources where applicable.

This Charter describes the expected role of Committee Members, Resources staff, and third-party neutral facilitators. It also lays out the proposed decision-making protocols for reaching agreement on formal recommendations developed by the Committee. These recommendations will be compiled into a required annual report to the Governor and California Legislature.

As a formally chartered organization developed through legislative action, the Committee and all of its decisions and work products are subject to the Bagley Keene Open Meetings Act.<sup>1</sup> As such, the Committee is required to document in its agendas, the meetings in which it will take formal actions on

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<sup>1</sup> [http://ag.ca.gov/publications/bagleykeene2004\\_ada.pdf](http://ag.ca.gov/publications/bagleykeene2004_ada.pdf)

items of discussion, so that the public is provided an opportunity to listen to Committee deliberations and to provide input prior to the Committee's actions.

**NOTE: This Charter does not carry any regulatory or legal authority. Although participation in the Committee is voluntary at all times, Committee Members agree to abide by the stipulations set forth in this Charter.**

### Section 3 – Draft Schedule

Date	Meeting Description
March 13, 2019	Committee Members determine decision making protocols and information needs required to begin formulation of environmental and socioeconomic recommendations.
June 5, 2019	Committee Members approve scope of and outline for initial draft recommendations.
September 26, 2019	Committee Members approve draft recommendations for final deliberation in 2019.
December 11, 2019	Committee Members approve final recommendations for inclusion in January 1, 2020 report to the Governor and Legislature.
TBD, 2020	2020 meeting dates and descriptions will be completed based on Committee approval of 2019 recommendations.

### Section 4 - Committee Organization

This section of the Charter describes the selection process, participant responsibilities, staff/consultant responsibilities, and decision-making protocols for the Committee. The Committee represents a comprehensive cross-section of stakeholders directly affected by the health of Clear Lake and socioeconomic impacts on Lake County communities. Time, budget, and size considerations mandate that a stakeholder group must be a representative and manageable cross-section of interests rather than a collection of all parties invested in or affected by the well-being of the lake. No stakeholder group can be completely inclusive. As such, AB 707 stipulates the specific interests represented on the Committee. These interests/organizations include:

- The Resources Secretary or designee
- A representative from the University of California, Davis
- One member of the Board of Supervisors from the County of Lake or their designee
- Representatives from the tribes in communities impacted by conditions in Clear Lake
- A representative from the Central Valley Regional Water Quality Control Board (Regional Water Board)
- An expert in each of the following areas, appointed by the Lake County Board of Supervisors:
  - Local economic development
  - Agriculture
  - Environment
  - A public water supplier drawing its drinking water supply from Clear Lake

Additionally, Resources staff and independently contracted consultants (Facilitators) will support the work of the Committee, as described in Sections 4.4 and 4.5, below.

The subsections below were developed based on the requirements of AB 707, direction from Resources, and direct input from Committee Members to ensure all member interests are represented to the fullest extent possible.

In addition to the full Committee, Members may request the formation of topic-specific subcommittees. The primary purpose of subcommittees will be to formulate recommendations and reports based on technical data for consideration by the full Committee. These subcommittees are not vested with any formal decision making authority. Subcommittee members will be invited to participate from the general public based on specific, relevant technical expertise at the request of the Committee. Detailed proposals for each subcommittee will be developed by the facilitator in consultation with Committee Members.

#### **4.1 Participant Selection<sup>2</sup>**

As described above, the Members of this committee represent a cross-section of stakeholders directly affected by the health of Clear Lake and the Lake County communities. Based on the specific representative interests and groups laid out in AB 707, Resources initiated a formal request for appointments of Committee Members in June of 2018. As per legislation, the Resources Secretary, or their designee, is the chair of the Committee; representatives from the following agencies and organizations serve as Committee Members:

- Lake County Special Districts Administrator
- UC Davis
- Elem Indian Colony
- Central Valley Regional Water Quality Control Board
- Lake County Resources Conservation District
- Habematolel Pomo of Upper Lake
- Big Valley Band of Pomo Indians
- Lake County Economic Development Corporation
- Lake County Supervisor
- Lake County Farm Bureau
- Robinson Rancheria
- Scotts Valley Band of Pomo Indians
- Koi Nation of Northern California
- Middletown Rancheria of Pomo Indians
- California Natural Resources Agency

#### **4.2 Committee Member Responsibilities**

Members will attend meetings; report back to the constituencies they represent; and communicate these constituencies' interests, concerns, and recommendations to the Committee. Members are also expected to review materials and provide comments in a timely manner. By being aware of their constituency's concerns and providing comments on applicable Committee materials, Members ensure all quarterly meetings can be used to efficiently provide formal recommendations.

**Committee Member Replacement:** Due to the urgent nature of the Committee's work and its charge set forth in AB 707, it is not optimal to replace Members once the Committee's work has started. If a Member is no longer able to participate in Committee activities, he or she will notify the Resources Secretary as well as their appointing entity in writing of his/her resignation and will recommend a

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<sup>2</sup> AB 707 stipulates that all members serve at the will of their appointing agencies. Publicly elected and/or appointed officials may necessarily change based on the outcomes of elections.

replacement. The Resources Secretary will work with the appointing entity to secure the appointment of the replacement Member.

The facilitator will coordinate new Member orientation utilizing the process for new appointments listed below. All Members should maintain a comprehensive record of their activities and personal work to be passed along to a replacement, if necessary. Note that AB 707 specifies membership and appointing agencies. All additions will be made in accordance with this legislation and serve at the pleasure of their appointing organizations.

1. The facilitator will work with the new Member during the orientation process to ensure that the replacement agrees to:
  - a. Commit the resources and time necessary to be an active Member of the Committee.
  - b. Accept all Committee recommendations to date, to work under the guidelines of this Charter and an understanding that previously agreed on items will not be revisited.

Committee Member Alternates: Consistent representation from all organizations involved in the Committee's work is essential for the success of the effort. Committee Members are expected to participate in all discussions and meetings; if a Member anticipates missing more than one meeting in a calendar year, s/he will contact Resources and the facilitation team to identify a suitable, permanent replacement.

However, it is reasonable to assume Members may need to occasionally rely on alternates to participate in Committee deliberation (including providing official decision making input on behalf of his or her organization). The appointing entity for each Member will identify the alternate, and should the Member be unable to attend, the Member will notify the facilitator of their intention to have the alternate attend in their place. The facilitator will set up a conference call between the Member and their alternate to provide a short briefing on upcoming agenda items.

NOTE: Members are expected to brief their alternate on their organization's views on any items for decision in advance of the next meeting. Decisions made by alternates are expected to represent the interests of their primary Member organization and will not be revisited at subsequent meetings.

### 4.3 Public Participation

All Committee meetings will be open to the public and will be publicized in accordance with the Bagley-Keene Open Meetings Act to ensure transparency during the Committee's tenure. The Committee will always represent a select group of representative stakeholders within this larger public meeting context. As such, each item for Committee discussion will begin with a discussion among Members; public participants will have an opportunity to comment at the end of every meeting.

### 4.4 Resources Agency Responsibilities

Resources Agency, the facilitator, and Committee Members will work collaboratively to develop agenda topics and other materials in advance of each meeting. The Resources Secretary or their designee in their role as Chair of the Committee will publicly circulate meeting notices and agendas at least 10 working days in advance of each meeting in accordance with the Bagley-Keene Open Meetings Act.

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**Deleted:** AB 707 does not specifically provide for an alternate selection process. Alternates designated by individual Committee Members are welcome to attend meetings and report back to their members but will not be able to participate in the decision making process outlined in Section 4.6 below.

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In addition to noticing requirements, Resources Agency will:

- Faithfully capture all Committee comments and recommendations in summaries and other work products.
- Serve as liaison between the Committee, Governor, and Legislature, and communicate all Committee recommendations to both groups.
- Describe Committee recommendations in the annual and final Committee reports.
- Provide regular updates on the state budget, legislative priorities, and other factors impacting the work of the Committee.

#### 4.5 Facilitator Responsibilities

Consultants will provide facilitation services to support the Committee process. The facilitator and facilitation team serve as a “professional neutral” whose primary responsibility is to ensure an open process where all participants’ interests, views, and opinions are heard and thoughtfully considered. Specific responsibilities of the facilitator include:

- Design and conduct a consensus-seeking decision-making process (see Section 3.6).
- Facilitate meetings and generate draft and final agendas and meeting summaries.
- Work with meeting presenters and presentations to ensure they are timely and informative to Committee needs
- Capture the range of views and ideas presented by participants and report on where there are areas of agreement and differences.
- Assure that Committee participants have adequate time to respond to information or requests submitted between meetings.
- Coordinate development of annual Committee reports to the Governor and Legislature
- Assist Resources staff in coordinating Committee activities with other programs as described in Section 4.4.
- Coordinate Committee recommendations and activities with other agencies or programs in the region involved in restoring Clear Lake and revitalizing Lake County communities. This may require the use of the Committee as an “informational clearinghouse” to share data produced by other agencies and provide information to other agencies or organizations on Committee activities impacting those groups.
- Facilitate regular, standardized updates at all Committee meetings from other agencies and activities in the region impacting the Committee’s work. These updates will be a standing agenda item at all Committee meetings.

#### 4.6 Decision-Making Protocols

The goal of the Committee is to develop recommendations for staff to incorporate into the annual reports to the Legislature, and to do so by consensus whenever possible. All Committee Members must be in agreement for a “consensus” determination. Given the timeframe of the process, consensus may not be feasible on some topics. Therefore, the Committee will *seek* consensus, rather than be mandated to *achieve* consensus on all topics. The decision to proceed with a recommendation absent a consensus will be based on discussions between Resources staff and the Committee; however, final determination on whether to continue seeking consensus will be made by the Resources Chair. If consensus is not

reached on a given topic, the range of recommendations supported by the different interests will be documented in meeting summaries and the annual report to the Legislature.

The consensus decision rule is based on principles of “consensus with accountability.” Consensus with accountability requires all Committee Members try to reach consensus, while always supporting and expressing the interests of their appointing entities. In the event a Member must reject a proposal, that Member must provide a counter proposal that legitimately attempts to achieve their interest and the interests of the other Members. The Committee will not vote and will not seek to identify numeric “winners and losers” on key topics. Rather, the Committee will seek mutually acceptable conclusions. In seeking consensus on any interim or final recommendations, participants will voice their opinions with specific proposals along the way, rather than waiting until a final recommendation has been developed. The basic decision-making process will be as follows:

- Quorum: No decisions will be made unless a quorum of Committee Members is present. A quorum is defined as 50% of the full membership of the Committee plus one additional Member.
- Straw Polls: Members will use straw polls to assess the degree of preliminary support for an idea before it is submitted to the Committee for a formal action / decision as described below. Straw polls will be conducted by the facilitator by asking each Member for tentative approval and initial support/concern without taking a formal “vote.” Members may indicate only tentative approval for a preliminary proposal without fully committing to its support and are not expected to provide an alternative beyond they’re reason for concern in the event they are unable to provide tentative approval.
- Draft and Final Decisions: The Committee will use the following four positions to indicate participants’ degree of approval and support for any proposal being considered and to determine the degree of consensus.
  - Do Not Support: I do not agree with the proposal. I feel the need to block its adoption *and* propose an alternative.
  - Conditionally Support: I am not enthusiastic about it, but I can accept the proposal with the understanding that future proposals may be needed.
  - Support: I support the proposal as is.
  - Abstention: At times, a Member may wish to abstain from the straw poll. Examples could include: a topic that has statutory implications that an agency representative cannot be on record conflicting with; a participant cannot get a consensus of his/her appointing agency or organization. Any abstention will be documented. Providing that a quorum of the Committee is present, abstention does not affect determination of consensus.

The goal in pursuing “consensus with accountability” is for all participants to be in the ‘Support’ or ‘Conditionally Support’ levels of agreement. The Committee will be considered to have reached consensus if all participants are at those two levels. If any participant is at a ‘Do Not Support’ level, that participant must provide a counter proposal that legitimately attempts to achieve their interest and the interests of the other participants. If consensus is not reached, the differing alternatives will be documented in the annual report to the Legislature. Members abstaining from particular proposals are encouraged to explain why abstention is in their best interest. The Committee will not revisit previously agreed to recommendations or alternatives unless new information would likely affect the Committee’s previous work.

#### **4.8 Communication Protocols**

A list of Committee Members will be made available to the public on the Resources website and will include the participant's name and represented interest(s). Committee Members will make a concerted outreach effort to communicate regularly with their agencies or constituencies to keep them informed about the process and the issues under discussion. Constituents wanting to provide input to the process are encouraged to communicate through their Committee representative. Committee Members are not prohibited from speaking with the media but must indicate that they are not speaking for the entire Committee unless specifically asked to do so by the committee through a consensus-seeking decision. Members should neither characterize the positions and views of any other party nor should they ascribe motives or intentions to the statements or actions of other Committee participants.

The Bagley Keene Open Meetings Act (Act) places some limitation on interactions between Committee Members outside of formal meetings. While it is understood that Committee Members will continue to interact at other events, under §11122.5(b) of the Act, Members are prohibited from discussing, deliberating, or taking action on any item of business that is formally within the subject matter of the Committee.

#### **4.9 Meeting Summaries**

Meeting summaries serve as a critical record of recommendations and decisions made by the Committee and will be an important tool for compiling annual reports. The facilitators will develop DRAFT meeting summaries and distribute to the Committee for comment within two weeks of each quarterly meeting. Committee Members will have an additional week to provide comments. Facilitators and Resources staff will review comments, revise the summary, and post a DRAFT FINAL version to the Resources website within one month of the meeting. To ensure consistency with the Bagley-Keene Open Meetings Act, summaries will not be considered FINAL until formally adopted by the full Committee at the next publicly noticed meeting.

### **Section 5 – Committee Ground Rules**

All Committee Members, staff, the facilitator, and public participants of a meeting agree to:

- Arrive promptly to all meetings and be prepared for the meeting agenda.
- Stay for the duration of the entire meeting.
- Turn cell phones to silent.
- Minimize actions that could be distracting to Committee discussions. Should any meeting attendee behavior (Members or public participants) become distracting to the Committee as a whole, individuals noticing such behavior should communicate with the facilitator to intervene.
- Participate in a problem-solving approach based on respectful and constructive dialogue, where the interests of all participants and the public are considered in developing proposals and recommendations.
- Openly discuss issues with other Members who hold diverse views and acknowledge and seek clarification of other perspectives,
- Verify assumptions impacting the Committee's work through the Chair of the Committee when necessary.
- Assure that all participants are heard, and that one person speaks at a time. Refrain from side conversations. Address all comments through the Chair.
- Keep commitments once made.
- When appropriate, distinguish between personal vs. organizational perspectives.